IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5465 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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MANSINGBHAI S KALASWA - Petitioner
Versus
DIST SUPERINTENDENT OF POLICE - Respondent

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Appearance :
MR VD PARGHI for Petitioner
MS MAITHILI MEHTA, AGP for Respondent

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 09/11/2006

ORAL JUDGMENT

1. By way of this petition, under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate direction or order quashing and setting

aside the order of discharge dated 20.05.1996 (Annxure – C) to the petition.

2. It is the contention on behalf of the petitioner that he was appointed as Armed Police Constable after due selection process and resumed his duties on 27.03.1995, and was sent for training to Police Training Center, Vadadora and the petitioner successfully completed the training. That by an order dated 20.05.1996, the petitioner was discharged from service with immediate effect. It is further contention on behalf of the petitioner that the petitioner was not issued any show cause notice nor opportunity of hearing was given. According to the petitioner, he was discharged from service in view of criminal case pending against the petitioner being Sessions Case No. 201 of 1993. However, subsequently the petitioner was acquitted, still the order of discharge has been passed.

3. Affidavit-in-reply is filed on behalf of the respondent. It is submitted in reply that the petitioner was appointed as Armed Police Constable, as per the Office Order dated 20.03.1995, purely on temporary basis and on probation for a period of two years. He resumed his duties on 27.03.1995. It is also further submitted in

reply that after completion of the training at Vadodara, on 02.04.1995 the petitioner was appointed purely on temporary basis and initially for two years on probation. It has also be submitted that discharge of the petitioner has nothing to do with criminal case as alleged in the petition. It is submitted that while assessing the conduct of the petitioner in light of his performance, the competent authority came to the conclusion that the services of the petitioner was no more required and accordingly, the services of the petitioner came to be annulled by the Administration vide order dated 20.05.1996. It is also submitted in reply that the petitioner has made an attempt to put his version that he has been acquitted in criminal proceedings, is only a partial truth. However, on going through the record it reveals that the petitioner has been arraigned for the charges punishable under Sections 357 and 380 of Indian Penal Code in Fatehpura Police Station and in C.R. No. 101 of 1991 under Sections 395 and 397 of the Indian Penal Code and at the relevant time, when the reply was filed both the cases were pending.

4. In view of the fact that the appointment of the petitioner was initially for a period of two years on probation and the performance of the petitioner was

assessed and considering the same, it was found that the services of the petitioner was no more required and that the petitioner was discharged, it cannot be said that there is any illegality committed by the respondent in discharging the petitioner from service during the period of probation.

5. For the reasons stated above, the petition fails and is required to be dismissed and is accordingly, dismissed. Rule is discharged. However, there shall be no order as to costs.

[M.R.SHAH, J.]

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